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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,792	02/11/2002	Steven M. Chinitz	DP-306199	5220

7590 03/26/2003

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EXAMINER	
FOOTLAND, LENARD A	
ART UNIT	PAPER NUMBER

3682  
DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/073,792	CHINITZ ET AL.
<b>Period for Reply</b>	Examiner	Art Unit
	Lenard A. Footland	3682
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<b>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</b>		
<p><i>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</i></p> <ul style="list-style-type: none"> <li><i>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</i></li> <li><i>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</i></li> <li><i>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</i></li> <li><i>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</i></li> </ul>		
<b>Status</b>		
<p>1)<input type="checkbox"/> Responsive to communication(s) filed on _____.</p> <p>2a)<input type="checkbox"/> This action is <b>FINAL</b>.                            2b)<input type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>		
<b>Disposition of Claims</b>		
<p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-26</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input type="checkbox"/> Claim(s) _____ is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input checked="" type="checkbox"/> Claim(s) <u>1-26</u> are subject to restriction and/or election requirement.</p>		
<b>Application Papers</b>		
<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.</p> <p style="padding-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11)<input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner.</p> <p style="padding-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p> <p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
<b>Priority under 35 U.S.C. §§ 119 and 120</b>		
<p>13)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input type="checkbox"/> All    b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p style="padding-left: 20px;">1.<input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p style="padding-left: 20px;">2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p> <p style="padding-left: 20px;">3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p> <p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p> <p>a)<input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>		
<b>Attachment(s)</b>		
<p>1)<input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.</p> <p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____.</p>		

This application contains claims directed to the following patentably distinct species of the claimed invention: the species of Figure(s) 2-3 versus that of Fig(s). 4 versus Fig(s). 4 versus each and any unillustrated “expressions of embodiments” applicant is claiming or intends to claim. All such “expressions” are required to be fully illustrated in response to this action as to all features claimed or intended to be claimed, and such requirement is continuing throughout the prosecution of this case. Failure to so illustrate will be considered nonresponsive.

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, AND A LISTING OF ALL CLAIMS READABLE THEREON (NOT, FOR EXAMPLE, “AT LEAST CLAIMS...”), INCLUDING ANY CLAIMS SUBSEQUENTLY ADDED, AND IF THE AMENDMENT OF ANY CLAIMS RESULTS IN A CHANGE OF THE SPECIES THEY READ UPON, THAT TOO SHOULD BE INDICATED. FAILURE TO DO SO MAY RESULT IN A HOLDING OF NONRESPONSIVENESS. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

The elected species is limited to the features set forth in the elected figures, and does not include features not illustrated in those figures, or illustrated in other figures. Accordingly, applicant should review all claims to ensure that all features of the elected species are properly illustrated, as required, in order to avoid a holding that an unillustrated feature does not form part of the elected species.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lenard A. Footland, whose telephone number is (703) 308-2683.



Lenard A. Footland  
Primary Examiner  
Technology Center 3600  
Art Unit 3682

laf  
March 24, 2003